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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/002,490	11/14/2001	Kenneth Troyer		2221
7590	12/04/2002		EXAMINER	
RAMON L. PIZARRO Suite 200 3515 SOUTH TAMARAC DRIVE DENVER, CO 80237			NGUYEN, DAVID T	
			ART UNIT	PAPER NUMBER
			3723	
			DATE MAILED: 12/04/2002	

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application N .	Applicant(s)	
10/002,490	TROYER, KENNETH	
Examiner	Art Unit	
David Nguyen	3723	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM
THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1) Responsive to communication(s) filed on 14 November 2001 .

2a) This action is **FINAL**. 2b) This action is non-final.

3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4) Claim(s) 1-4,7-9 and 12-14 is/are pending in the application.

4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5) Claim(s) _____ is/are allowed.

6) Claim(s) 1-4, 7-9, and 12-14 is/are rejected.

7) Claim(s) _____ is/are objected to.

8) Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9) The specification is objected to by the Examiner.

10) The drawing(s) filed on _____ is/are: a) accepted or b) objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

11) The proposed drawing correction filed on _____ is: a) approved b) disapproved by the Examiner.
If approved, corrected drawings are required in reply to this Office action.

12) The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

13) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a) All b) Some * c) None of:

1. Certified copies of the priority documents have been received.

2. Certified copies of the priority documents have been received in Application No. _____.

3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

14) Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).

a) The translation of the foreign language provisional application has been received.

15) Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

1) Notice of References Cited (PTO-892)

2) Notice of Draftsperson's Patent Drawing Review (PTO-948)

3) Information Disclosure Statement(s) (PTO-1449) Paper No(s) 2 .

4) Interview Summary (PTO-413) Paper No(s) _____ .

5) Notice of Informal Patent Application (PTO-152)

6) Other: _____

DETAILED ACTION

Specification

1. During a telephone conversation with RAMON L. PIZARRO on 11-21-02 a provisional election was made WITHOUT traverse to prosecute the invention of FLOOR EDGER ADJUSTMENT TOOL, claims 1-4, 7-9, and 12-14 for species 1 figures 3, 5, and 6. Applicant in replying to this Office action must make affirmation of this election. Claims 5, 6, 10, 11, 15, 16 species 2 (figures 4, and 7) withdrawn from further consideration by the examiner, 37 CFR 1.142(b), as being drawn to a non-elected invention.

Drawings

2. "Fig. 4 shows. . . can be made adjustable" (page 11, lines 12-18), disclosing the distance 70 is illustrated as horizontal adjustment, but the knob 76 for vertical adjustment.

Appropriate correction is required.

Claim Rejections - 35 USC § 112

1. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

2. Claims 1, 4 – 7-9, and 12-16 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Referring to claims 1, and 7, these claims disclose the tool with one leading end, and only one trailing end (page 13, lines 6 and 7), however, it has a pair of wheel setting surfaces, figs 6, and 7 with V shaped and having 2 trailing ends.

Referring to claims 4, 5, and 9, the drawings do not disclose the distance (needs numbered) show the distance from the body to where? it is importance because this distance determines the angle of adjustment.

Referring to claims 12, this claim is disclosed a method how to use the tool, however, it is unclear, lacking of the step.

Step 1: does not disclose the position the machine (up side down).

Step 2: positioning the tool, this step disclosed in the claim.

Step 3: wheel adjustment: ‘ adjusting the wheels by moving the wheels”(page 17, line 6), It is unclear that how to move the wheels.

c. claims 13-14 seem like repeating the apparatus claims instead of creating the steps of method claims.

Allowable Subject Matter

3. Claims 1, 4- 7, 9, and 12-14 would be allowable if rewritten or amended to overcome the rejection(s) under 35 U.S.C. 112, second paragraph, set forth in this Office action.
4. Claims 2, 3 and 8 would be allowable if rewritten to overcome the rejection(s) under 35 U.S.C. 112, second paragraph, set forth in this Office action and to include all of the limitations of the base claim and any intervening claims.

Conclusion

5. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Ernst discloses the rotary floor sander.

Weltikol et al discloses the high-speed conversion means for floor treating machines.

Genovese discloses the height adjustment control for a floor-polishing machine.

Letts discloses the surface-leveling tool.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to David Nguyen whose telephone number is 703-305-5712. The examiner can normally be reached on 7:30-4:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Joseph Hail can be reached on 308-2687. The fax phone numbers for the organization where this application or proceeding is assigned are 703-872-9302 for regular communications and 703-872-9303 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 308-0000.



Joseph J. Hail, III
Supervisory Patent Examiner
Technology Center 3700

dtn
November 25, 2002

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